

## Federal Reserve System

methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of *your* credit record.

This notice is not the contract that makes you liable for the debt.

(2) In the case of open-end credit, the disclosure statement shall be given to the cosigner prior to the time that the cosigner becomes obligated for fees or transactions on the account.

(3) A bank that is in compliance with this paragraph may not be held in violation of paragraph (a)(2) of this section.

### § 227.15 Unfair late charges.

(a) In connection with collecting a debt arising out of an extension of credit to a consumer, it is an unfair act or practice for a bank to levy or collect any delinquency charge on a payment, when the only delinquency is attributable to late fees or delinquency charges assessed on earlier installments, and the payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period.

(b) For the purposes of this section, *collecting a debt* means any activity, other than the use of judicial process, that is intended to bring about or does bring about repayment of all or part of money due (or alleged to be due) from a consumer.

### § 227.16 State exemptions.

(a) *General rule.* (1) An appropriate state agency may apply to the Board for a determination that:

(i) There is a state requirement or prohibition in effect that applies to any transaction to which a provision of this subpart applies; and

(ii) The state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by this subpart.

(2) If the Board makes such a determination, the provision of this subpart will not be in effect in that state to the extent specified by the Board in its determination, for as long as the state administers and enforces the state requirement or prohibition effectively.

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(b) *Applications.* The procedures under which a state agency may apply for an exemption under this section are the same as those set forth in appendix B to Regulation Z (12 CFR part 226).

### Subpart C—Consumer Credit Card Account Practices Rule

SOURCE: Reg. AA, 74 FR 5559, Jan. 29, 2009, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 5559, Jan. 29, 2009, subpart C to part 227 was added, effective July 1, 2010.

#### § 227.21 Definitions.

For purposes of this subpart, the following definitions apply:

(a) “Annual percentage rate” means the product of multiplying each periodic rate for a balance or transaction on a consumer credit card account by the number of periods in a year. The term “periodic rate” has the same meaning as in 12 CFR 226.2.

(b) “Consumer” means a natural person to whom credit is extended under a consumer credit card account or a natural person who is a co-obligor or guarantor of a consumer credit card account.

(c) “Consumer credit card account” means an account provided to a consumer primarily for personal, family, or household purposes under an open-end credit plan that is accessed by a credit card or charge card. The terms “open-end credit,” “credit card,” and “charge card” have the same meanings as in 12 CFR 226.2. The following are not consumer credit card accounts for purposes of this subpart:

(1) Home equity plans subject to the requirements of 12 CFR 226.5b that are accessible by a credit or charge card;

(2) Overdraft lines of credit tied to asset accounts accessed by check-guarantee cards or by debit cards;

(3) Lines of credit accessed by check-guarantee cards or by debit cards that can be used only at automated teller machines; and

(4) Lines of credit accessed solely by account numbers.

#### § 227.22 Unfair acts or practices regarding time to make payment.

(a) *General rule.* Except as provided in paragraph (c) of this section, a bank

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must not treat a payment on a consumer credit card account as late for any purpose unless the consumer has been provided a reasonable amount of time to make the payment.

(b) *Compliance with general rule*—(1) *Establishing compliance.* A bank must be able to establish that it has complied with paragraph (a) of this section.

(2) *Safe harbor.* A bank complies with paragraph (a) of this section if it has adopted reasonable procedures designed to ensure that periodic statements specifying the payment due date are mailed or delivered to consumers at least 21 days before the payment due date.

(c) *Exception for grace periods.* Paragraph (a) of this section does not apply to any time period provided by the bank within which the consumer may repay any portion of the credit extended without incurring an additional finance charge.

### § 227.23 Unfair acts or practices regarding allocation of payments.

When different annual percentage rates apply to different balances on a consumer credit card account, the bank must allocate any amount paid by the consumer in excess of the required minimum periodic payment among the balances using one of the following methods:

(a) *High-to-low method.* The amount paid by the consumer in excess of the required minimum periodic payment is allocated first to the balance with the highest annual percentage rate and any remaining portion to the other balances in descending order based on the applicable annual percentage rate.

(b) *Pro rata method.* The amount paid by the consumer in excess of the required minimum periodic payment is allocated among the balances in the same proportion as each balance bears to the total balance.

### § 227.24 Unfair acts or practices regarding increases in annual percentage rates.

(a) *General rule.* At account opening, a bank must disclose the annual percentage rates that will apply to each category of transactions on the consumer credit card account. A bank must not increase the annual percent-

age rate for a category of transactions on any consumer credit card account except as provided in paragraph (b) of this section.

(b) *Exceptions.* The prohibition in paragraph (a) of this section on increasing annual percentage rates does not apply where an annual percentage rate may be increased pursuant to one of the exceptions in this paragraph.

(1) *Account opening disclosure exception.* An annual percentage rate for a category of transactions may be increased to a rate disclosed at account opening upon expiration of a period of time disclosed at account opening.

(2) *Variable rate exception.* An annual percentage rate for a category of transactions that varies according to an index that is not under the bank's control and is available to the general public may be increased due to an increase in the index.

(3) *Advance notice exception.* An annual percentage rate for a category of transactions may be increased pursuant to a notice under 12 CFR 226.9(c) or (g) for transactions that occur more than seven days after provision of the notice. This exception does not permit an increase in any annual percentage rate during the first year after the account is opened.

(4) *Delinquency exception.* An annual percentage rate may be increased due to the bank not receiving the consumer's required minimum periodic payment within 30 days after the due date for that payment.

(5) *Workout arrangement exception.* An annual percentage rate may be increased due to the consumer's failure to comply with the terms of a workout arrangement between the bank and the consumer, provided that the annual percentage rate applicable to a category of transactions following any such increase does not exceed the rate that applied to that category of transactions prior to commencement of the workout arrangement.

(c) *Treatment of protected balances.* For purposes of this paragraph, "protected balance" means the amount owed for a category of transactions to which an increased annual percentage rate cannot be applied after the rate for that category of transactions has